

Notice of Allowability	Application No.	Applicant(s)	
	10/759,889	VAN DYK, TINA K.	
	Examiner	Art Unit	
	Tara L Garvey	1636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to a response to a restriction requirement filed November 18, 2004.
2. ☒ The allowed claim(s) is/are 1-13.
3. ☒ The drawings filed on 16 January 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>4/22/04, 10/4/04</u> 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20041215</u>. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
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EXAMINER'S AMENDMENT

Claims 1-13 are pending. Claims 14-19 were cancelled in a response to a restriction requirement filed on November 18, 2004.

The receipt of the artifact folder from January 16, 2004 is acknowledged and was reviewed.

Election/Restrictions

Applicant's election without traverse of Group I (claims 1-13) in the reply filed on November 18, 2004 is acknowledged.

The requirement to elect a specific product produced by an enzymatic pathway has been withdrawn.

Information Disclosure Statement

Application 60/440,760 was considered, but a line was placed through the reference since it is an unpublished application.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Neil Feltham on December 21, 2004.

The application has been amended as follows:

In the specification:

On page 3, lines 23 and 32 and on page 16, line 16 "yhcRQR" will be changed to "yhcRQP".

In the claims:

In claim 7 on line 3, "yhcRQR" will be changed to "yhcRQP".

The following is an examiner's statement of reasons for allowance: The invention of claims 1-13 is free of the art because the prior art does not teach a method of inducible expression of a heterologous nucleic acid in a host cell that has a yhcS regulator that is responsive to an aromatic carboxylic inducer and a promoter that is responsive to the yhcS regulator gene. Sperandio et al (Infection and Immunity, 2002, 70(6), pages 3085-3093) teaches an E. coli regulator gene encoded by open reading frame b3243, which is a LysR family member (abstract and page 3090, left column, paragraph 1). The E. coli gene at open reading frame b3243 of the yhcRQP operon reads on yhcS as disclosed in the specification (page 22, lines 11-13). However, the induction of the yhcS regulator gene by an aromatic carboxylic acid and the use of this regulator gene in an inducible expression system is not taught or fairly suggested by Sperandio et al.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L Garvey whose telephone number is (571) 272-2917. The examiner can normally be reached on Monday through Friday 9 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) (<http://pair-direct.uspto.gov>) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that

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the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Tara L Garvey
Examiner
Art Unit 1636

TLG



**JAMES KETTER
PRIMARY EXAMINER**